



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,407	01/05/2005	Hiroyuki Naitou	264178US0PCT	9968
22850	7590	08/22/2007	EXAMINER	
OBLON, SPIVAK, MCCELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			HAILEY, PATRICIA L	
ART UNIT	PAPER NUMBER		1755	
NOTIFICATION DATE	DELIVERY MODE		08/22/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/519,407
Filing Date: January 05, 2005
Appellant(s): NAITOU ET AL.

MAILED
AUG 22 2007
GROUP 1700

Harris A. Pitlick
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 3, 2007, appealing from the Office action mailed September 7, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2000-296336 Japanese Patent to Naito et al. 10-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-15 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 2000-296336, Appellants' submitted art (translation provided by the Examiner).

The Japanese Patent discloses a catalyst useful for the production of methacrylic acid by vapor phase catalytic oxidation of methacrolein, said catalyst produced by mixing a solution (A) containing at least molybdenum, phosphorus, and vanadium with a solution (B) containing an ammonia compound, and mixing that mixture (A + B) with a solution (C) which contains Z (represented by potassium, rubidium, cesium and thallium). The amount of ammonium radicals in solution (A) is less than or equal to 1.5 mols per 12 mols of molybdenum atoms, and the amount of ammonium radicals in (A +

B) is 6-17 mols per 12 mols of molybdenum. See claim 1 of the Japanese Patent, which also discloses a molecular formula for the catalyst comparable to that recited in the instant claims.

The Japanese Patent does not specifically disclose the claimed amounts of the solutions to be admixed, as recited in the instant claims. Because the Japanese Patent teaches a catalyst formulaically similar to that recited in the instant claims, and teach a method comparable to that instantly claimed, in terms of the solutions and the components respectively contained therein, it would have been obvious to one skilled in the art at the time the invention was made to determine through routine experimentation the optimal amounts of these components, and thereby obtain Applicants' claimed invention.

(10) Response to Argument

Appellants' arguments traversing the rejection of Appealed Claims 1-15 under 35 U.S.C. §103(a) as being unpatentable over Kasuga et al. (U. S. Patent No. 6,458,740) are persuasive; said rejection has been withdrawn.

In response to Appellants' arguments that Naito et al. (the Japanese Patent) do not teach or suggest the claimed invention because this reference "did not recognize any difference in addition times", Appellants' comparisons between the claimed invention and this reference are duly noted. However, although Example 8 of Naito et al. and Appellants' Comparative Example 4 exhibit the same values for methacrolein conversion, methacrylic acid selectivity, and methacrylic acid yield, one of ordinary skill

in the art would not be *immediately* led to the conclusion that a mixing time of 30 minutes—as shown in Appellants' Comparative Example 4—is the reason said values were obtained in Example 8 of Naito et al. The Examiner also notes that, in both the inventive Example 11 and Comparative Example 4, the mixing times of both liquids B and C are changed; Appellants' claimed invention, in its broadest interpretation, hinges in criticality only on the mixing time of liquid B. Therefore, Appellants' comparisons do not appear to be commensurate in scope with the claims under appeal, in their present form.

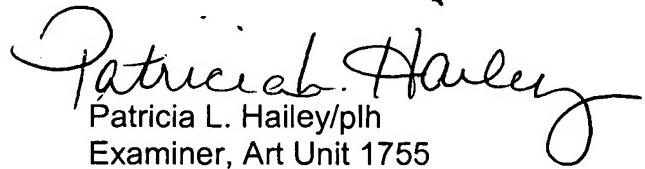
For these reasons, Appellants' arguments are not persuasive.

(11) Related Proceeding(s) Appendix

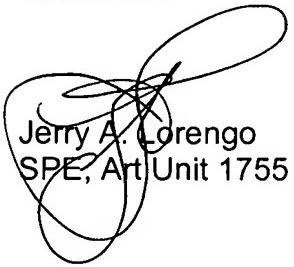
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Patricia L. Hailey/plh
Examiner, Art Unit 1755
August 16, 2007

Conferees:


Jerry A. Lorengo
SPE, Art Unit 1755


Romulo Delmendo
TC 1700 Appeal Conferee